

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
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**FISCAL IMPACT STATEMENT**

**LS 7952**

**BILL NUMBER:** HB 1802

**DATE PREPARED:** Feb 7, 2001

**BILL AMENDED:**

**SUBJECT:** Property Tax Administration.

**FISCAL ANALYST:** Bob Sigalow

**PHONE NUMBER:** 232-9859

**FUNDS AFFECTED:** X

**GENERAL  
DEDICATED  
FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill creates the Department of Local Government Finance (DLGF) and the Department of Tax Appeals (DOTA). It abolishes the State Board of Tax Commissioners, the School Property Tax Control Board, and the Local Government Tax Control Board.

The bill directs the DLGF to review the procedures associated with: (1) the establishment of budgets, rates, and levies by local units of government, including school corporations; and (2) the adoption by units of local financing matters, such as bond issues and leases. It requires the DLGF to assess large industrial properties for property tax purposes.

This bill directs the DOTA to hear appeals from determinations of county property tax assessment boards of appeal and the DLGF. It provides that determinations of the DOTA are appealable to the Tax Court. With respect to the DOTA, the bill establishes burden of proof standards and required findings. It establishes burden of proof standards before the Tax Court, and specifies the circumstances under which the Court may hear evidence not heard at an administrative hearing. The bill also establishes requirements with respect to the record for appeals of determinations of the DOTA to the Tax Court. It provides that applications for deductions for personal property in an economic revitalization area are reviewed by the governmental body that designated the area. This bill also makes conforming amendments.

**Effective Date:** July 1, 2001.

**Explanation of State Expenditures:** The State Tax Board is currently comprised of five divisions including the Appeals, Assessment, Budget, Operations, and Tax Review Divisions. The Tax Board has 99 approved positions and their FY 2001 budget is set at \$6.2 M. This bill would eliminate the State Board of Tax Commissioners effective July 1, 2001. Together, the DLGF and the DOTA would take its place, with the DLGF taking over local government finance and assessment oversight responsibilities and the DOTA assuming the Tax Board's appeals responsibilities. Many of the current duties of the State Tax Board would simply be shifted to the new departments without change to those duties. There would be only a few

substantive changes. This analysis focuses on those changes.

DLGF: The DLGF would be headed by one commissioner and one deputy commissioner. The description of the rest of the DLGF's staff is much like the current Tax Board staff without the Appeals Division. The bill would also allow DLGF employees to provide assistance to the DOTA. The rules and directives of the State Tax Board would become the rules and directives for the DLGF on July 1, 2001.

DOTA: The DOTA would be headed by a director. The staff of the DOTA would be the same as the staff of the current Appeals Division of the State Tax Board.

The bill would allow the DLGF and the DOTA to create joint positions.

The FY 2002 requested State Tax Board budget for what would become the DLGF is \$1.86 M. The budget request for what would become the DOTA is \$4.8 M in FY 2002. The requests total to \$6.7 M in FY 2002 and \$6.4 M in FY 2003 as compared to the State Tax Board's FY 2001 budget of \$6.2 M.

Industrial Assessments: Under the proposal, the DLGF would assess each industrial facility in the state with an estimated true tax value of \$25 M or more. These facilities are currently assessed by local assessors. This provision could increase the DLGF's administrative expenses for personnel and travel. The number of industrial facilities with a true tax value of at least \$25 M is currently unknown. The actual increased costs to the DLGF would depend on the number and complexity of these facilities. Assessments of industrial property could be more uniform under the proposal making the distribution of the tax burden more fair and equitable to all taxpayers. If these assessments are more uniform than under the current system, appeals of industrial assessments could be reduced.

Appeals: This bill contains several changes to the way in which the DOTA would be required to conduct assessment appeals hearings and to the way that cases are presented to and reviewed by the Tax Court. All of the provisions, taken together, could have several effects including:

- 1) A possible reduction in the number of future cases appealed to the Tax Court.
- 2) A possible reduction in DOTA and Tax Court resources devoted to each case at the Tax Court level.

If DOTA resources are freed up as a result of this bill, the DOTA would be able to devote these resources to other matters. The changes are:

A) Under this bill, the DOTA would be prohibited from assessing property when the property's assessment is under appeal. The DOTA would be permitted to limit the scope of the appeal to issues raised in the appeal petition and the evaluation of evidence presented in support of those issues. Since the State Tax Board rarely assesses property under appeal, this provision merely codifies current practice and would have no real fiscal impact.

B) This bill would put the burden of proof on the petitioner when appealing an assessment. There would be a rebuttable presumption that the local assessment determination is correct. The petitioner would have to prove through the weight of the evidence that the local assessment determination is in error. Currently, when these cases progress to the Tax Court, the State Tax Board must defend the local assessment while defending the State Tax Board's determination. This provision would lessen the burden on the DOTA in defending a determination in a Tax Court case. The shift of this burden to the appellant might cause some reduction in the number of cases appealed to the Tax Court.

C) The bill requires the DOTA to include separately stated findings of fact for all aspects of a DOTA determination. This provision codifies current practice by the State Tax Board in creating a record for Tax Court cases.

D) Under current law, the Secretary of the State Tax Board must transmit a certified transcript of the appeal proceedings to the court. This proposal would require the DOTA to submit a certified record of proceedings to the Tax Court when appeals are heard. The record must include copies of all notices, petitions, motions, pleadings, orders, briefs, requests, rulings, photos, and other written documents. The record must also include evidence received by or considered by the DOTA and information on a site inspection, if any. The State Tax Board already includes this information in the transcript of proceedings prepared under current law.

E) The bill would require that judicial review must be confined to the record of proceeding before the DOTA in Tax Court cases involving appeals of determinations concerning property tax assessments, deductions, exemptions, and credits. The Court would be permitted to receive additional evidence only if it relates to the validity of the determination and is needed to decide disputed issues of (1) improper constitution as a decision making body or (2) unlawfulness of the procedure or decision making process. Judicial review would also be confined to issues raised before the DOTA except in cases where (1) an issue concerns notification of commencement of a proceeding or (2) interests of justice would be served by judicial resolution arising from a change in law after DOTA's action is taken. This provision would transform the Tax Court from a hybrid trial/appeals court into a strictly appeals court when considering DOTA cases.

Control Boards: This proposal eliminates the School Property Tax Control Board and the Local Government Property Tax Control Board. The School Control Board is made up of five voting members and two ex officio non-voting members. The Local Control Board is made up of seven voting members and two ex officio non-voting members. They each meet fourteen times per year in Indianapolis. Members who are not state employees are not paid a salary but do receive per diem payments and mileage allowances. These expenses, which are paid from the state General Fund, would be eliminated under this bill.

#### **Explanation of State Revenues:**

#### **Explanation of Local Expenditures:**

**Explanation of Local Revenues:** DLGF Review: The DLGF would review local budgets, rates, and levies. After the review, the DLGF would forward a report to the taxing unit that would include irregularities that the unit would have to address before finalizing the budget, rate, and levy. Likewise, the DLGF would review local financing matters including bond issues, five-year or longer leases, cumulative funds, borrowing, contracts, and excessive levies and issue a report. After a unit receives a report on budgets, rates, and levies or local financing, the unit would be responsible for adopting the appropriate measure. The State Tax Board currently certifies these items to local government. However, the DLGF would not under this proposal.

Tax Abatements: The proposal would require the local designating body to review and consider for approval, personal property tax abatement (ERA) deductions. This action could increase the designating body's administrative expenses.

Under current law, an ERA deduction application must be filed with the county auditor and the State Board of Tax Commissioners by May 15th (June 14th if the taxpayer received an extension to file their personal property tax return). Instead, this bill would require the taxpayer to file a schedule with the township assessor who would then forward it to the county auditor and the local designating body. By June 20, the designating

body would notify those taxpayers that qualify but have failed to file the schedule. Taxpayers would be able to file the schedule until July 10th. The designating body would then send to the county auditor a list of taxpayers eligible for the deduction and an indication of whether or not they filed the schedule.

Local revenues should not change appreciably under this proposal.

**State Agencies Affected:** State Board of Tax Commissioners.

**Local Agencies Affected:** All local civil units and school corporations.

**Information Sources:** Indiana Program Budget Book, 2001, State Budget Agency.